In the claims:

1. (Currently Amended)   A method for measuring the performance of a scalable network comprising:

    preparing a network under test for testing;

    establishing a routing path for a session to be tested wherein said routing path is a static IP route;

    sending, by a packet generator, a constant stream of packets through a network under test; ~~and~~

    counting, by a packet count unit, received packets <u>at the packet count unit; and</u>

    establishing a peak performance rate as the highest rate with no packet dropout.

Claims 2-4   (Cancelled)

5. (Original)   The method of claim 1, wherein said act of sending a constant stream of packets includes the act of sending said constant stream of packets over an OC-3 level network.

6. (Original)   The method of claim 1, wherein said act of sending a constant stream of packets includes the act of sending said constant stream of packets over an OC-12 level network.

7. (Currently Amended)   A program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform a method for measuring the performance of a scalable network, said method comprising:

    preparing the network for testing;

establishing a routing path for a session to be tested wherein said routing path is a static IP route;

sending, by a server, a constant stream of packets to a client node; ~~and~~

counting, by said client node, said ~~received~~ packets received at said client node; and

establishing a peak performance rate as the highest rate with no packet dropout.

Claims 8-10   (Cancelled)

11.   (Original)   The program storage device of claim 7, wherein said act of sending a constant stream of packets includes the act of sending said constant stream of packets over an OC-3 level network.

12.   (Original)   The program storage device of claim 7, wherein said act of sending a constant stream of packets includes the act of sending said constant stream of packets over an OC-12 level network.

13.   (Currently Amended)   An apparatus for measuring the performance of a scalable network comprising:

means for preparing the network for testing;

means for establishing a routing path for a session to be tested wherein said routing path is a static IP route;

means in a server for sending a constant stream of packets to a client node; ~~and~~

means in said client node for counting said ~~received~~ packets received by said client node; and

means for establishing a peak performance rate as the highest rate with no packet dropout.

Claims 14-16 (Cancelled)

17.   (Original)   The method of claim 13, means for sending a constant stream of packets includes the act of sending said constant stream of packets over an OC-3 level network.

18.   (Original)   The method of claim 13, means for sending a constant stream of packets includes the act of sending said constant stream of packets over an OC-12 level network.

19.   (Currently Amended)   A system for measuring the performance of a scalable network comprising:

    a packet generator in a source node for providing test packets to a network under test;

    a packet count unit in a client node for counting test packets received by said client node from said network under test; and

    wherein said test packets are provided in a constant stream to said network under test and wherein a peak performance rate of said network under test is established as the maximum receive rate at a particular packet size with no packet dropout.

20.   (Original)   The system of claim 19, wherein said network under test comprises a OC-3 level network.

21.   (Original)   The system of claim 19, wherein said network under test comprises a OC-12 level network.

Claims 22-24 (Cancelled)

25.   (Original)   The system of claim 20, wherein said network under test includes two Fast Ethernet pathways.

26.   (Original)   The system of claim 21, wherein said network under test includes eight Fast Ethernet pathways.

27.   (Original)   The system of claim 21, wherein said network under test includes at least two Gigabit Ethernet pathways.

28.   (Original)   The system of claim 21, wherein said network under test includes four OC-3 pathways.

29.   (Original)   The system of claim 19, wherein said packet generator is configured using Pagent software.

30.   (Original)   The system of claim 19, wherein said system is configured to download a test configuration file from a TFTP server.